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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/023,473

12/17/2001

Gregory Moulton

3633

7590

06/16/2006

Thomas A. O'Rourke
Bodner & O'Rourke LLP.
425 broadhollow Rd., Ste. 108
Melville, NY 11747

EXAMINER

HOOK, JAMES F

ART UNIT

PAPER NUMBER

3754

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/023,473

Applicant(s)

MOULTON ET AL.

Examiner

James F. Hook

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,4,8,10-14,16-20 and 23-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-27 is/are allowed.
- 6) ☒ Claim(s) 2,4,8,10-14,16-20, 23, and 28--37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 28 and 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, these two claims contain more than one sentence in that claim 28 line 12 contains a period, as does line 18, and line 23 also contains a period making the claim more than one sentence which is indefinite when the scope of the claim cannot be determined when it is not clear whether the subject matter following the first period and second periods in the claim are also considered limiting structure of the claim. The same is true of claim 37 which likewise contains extra periods on lines 12 and 18, and also contains a third period on line 23 making the claim more than one sentence which is indefinite when the scope of the claim cannot be determined when it is not clear whether the subject matter following the first and second periods in the claim are also considered limiting structure of the claim. For purposes of examination, the extra periods found on lines 12 and 18 of each claim will be considered as semi-colons and the final period as defining the complete claim, where such should be corrected in any subsequent response.

Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 13 contains the same subject matter and language as

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claim 12 and is also dependent upon the same claim, therefore, claim 13 does not further limit claim 37 above what was already set forth in claim 12.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 28, 37, 2, 4, 8, 10-14, 18-20, 23, and 29-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pavlic (474) in view of Choiniere. The reference to Pavlic discloses the recited flexible hose for carrying fluids comprising ends of the hose, the hose is in the retracted position when no tensile force is place on an end as seen in figures 2, a thermoplastic cover 14 having a helical member 12 adhered to the cover, the helical member can carry electricity being formed of steel wire 19 including extra wire 21, the hose has peaks and valleys formed by corrugations where the valleys are virtually eliminated as seen in figure 2 when the hose is in the contracted state, the valleys are U shaped, and the valleys get wider as the hose is stretched but at least the upper part of the sidewalls stays "generally" the same, there is only a single helical member of constant pitch, the wires are connected to a switch to control the motor of the vacuum via electricity, the second wire is next to the first wire, and it is inherent that the cover layer would have to be extruded since there are no seams suggesting a wrapped method of forming the outer layer and there is no other known way to form a seamless outer tubular layer other than extrusion, however, such is also merely a

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method step in an article claim, and would not make the outer layer materially different from that shown in Pavlic and would have little patentable weight on a product claim.

The patents to Pavlic discloses all of the recited structure with the exception of embedding the conductor wire in the cover, providing a second conductor wire, disclosing dimensions of the peaks and distances they are spaced, amount of extension, specific gauges of the wires used, forming the outer layer by extrusion and using stranded copper wires. It is considered obvious choices of mechanical expedients to use routine experimentation to arrive at optimum values for the intended use of the hose, including choosing the needed gauge of wire, and various sizes of the peaks and gaps to meet the needs of the user. The use of stranded copper wire over solid copper is considered old and well known, as further supported by Choiniere below, to substitute a stranded wire for a solid to achieve more flexibility. It would have been obvious to one skilled in the art to modify the copper wire in Pavlic to be stranded copper wire to provide more flexibility, to use any gauge wire that is required for the current to be carried as such is an obvious choice of mechanical expedients, and to form the values and gaps of any size, or amount of extension, as such is merely a choice of mechanical expedients. It is believed that the patent to Pavlic meets the claimed structure above and that the method step does not provide any further limitations to the article claim in that the method would not change the final product, however, should it be successfully argued that the method step should hold patentable weight, and further in that Pavlic inherently can't be formed by extrusion, it is considered that such is merely a choice of mechanical expedients where it is old and well known to

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form tubes of any methods including winding tape layers or extruding and such would only require routine skill in the art to use whichever method proved cheaper and easier. The patent to Choiniere discloses that it is old and well known in the art of flexible current carrying hoses to provide a cover made of thermoplastic that covers a single helical member 30, and has embedded therein a pair of conductor wires 38,39 which can be either side of the helical member, and can be formed of stranded wire to carry current. It would have been obvious to one skilled in the art to modify the cover in Pavlic by embedding the conductor wire in the cover layer and to provide a second conductor wire as suggested by Choiniere where such teaches an equivalent way to form the hose with conducting wires, where such would reduce the chance of shorting in that by placing the conductors embedded in the cover layer would put more non conductive material between the helical member and the conductor, and to provide a second conductor to allow for control of more electrical items where such would reduce costs by reducing failure and extra wires that would need to be provided externally.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pavlic in view of Choiniere as applied to claims 28, 37, 2, 4, 8, 10-14, 18-20, 23, and 29-36 above, and further in view of Duff (264). The patent to Pavlic as modified discloses all of the recited structure with the exception of coating the conductive wires in another metal, and forming such in a figure 8 shape. The reference to Duff discloses the recited flexible hose for carrying fluids comprising ends of the hose, the hose is in the retracted position when no tensile force is place on an end as seen in figure 2, a thermoplastic cover 21 having a helical member 20 adhered to the cover, the helical

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member can carry electricity being formed of steel wires 25,26 (col. 4, lines 33-40) which can also be copper or aluminum clad steel wires, the hose has peaks and valleys formed by corrugations where the valleys are virtually eliminated as seen in figure 2 when the hose is in the contracted state, the valleys are U shaped, and the valleys get wider as the hose is stretched but at least the upper part of the sidewalls stays "generally" the same, there is only a single helical member of constant pitch, the wires are connected to a switch to control the motor of the vacuum via electricity (col. 2, lines 45-58), the second wire is next to the first wire, the covering over the wires forming the helical member is in a figure 8 shape as seen in figure 2, and it is inherent that the cover layer would have to be extruded since there are no seams suggesting a wrapped method of forming the outer layer and there is no other known way to form a seamless outer tubular layer other than extrusion, however, such is also merely a method step in an article claim, and would not make the outer layer materially different from that shown in Duff and would have little patentable weight on a product claim. It would have been obvious to one skilled in the art to modify the conductor in Pavlic as modified to be a clad steel wire, such as coated by copper, and to form the helix in the shape of a figure 8 as such is merely a choice of mechanical design, as suggested by Duff, where such would make the helical member more conductive, and such is an equivalent shape to provide the helix in to make the hose more pleasing to the eye.

Allowable Subject Matter

Claims 24-27 are allowed.

Response to Arguments

Applicant's arguments with respect to claims 2, 4, 8, 10-14, 16-20, 23, and 28-37 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Sato disclosing a state of the art hose.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

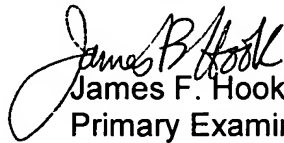
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


James F. Hook
Primary Examiner
Art Unit 3754

JFH